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7 UNITED FOOD AND COMMERCIAL  
8 WORKERS LOCAL 1776 &  
9 PARTICIPATING EMPLOYERS HEALTH  
10 AND WELFARE FUND, et al.,

11 Plaintiffs,

12 v.

13 TEIKOKU PHARMA USA, INC., et al.,

14 Defendants.

15 Case No. [14-md-02521-WHO](#)

16 **ORDER RE DISCOVERY DISPUTE**

17 Re: Dkt. No. 247

18 The parties filed a discovery letter brief on August 6, 2015 regarding a dispute between  
19 defendants and Direct Purchaser Plaintiffs (“DPPs”) about the defendants’ Requests for  
20 Production (“RFPs”). Defendants seek “the production of data and documents relating to the  
DPP’s pricing and sales of Lidoderm and contracts with their customers.” Dkt. No. 247 at 1.  
Plaintiffs contend that this information is not relevant under *Hanover Shoe v. United Show  
Machinery Corp.*, which allows a direct purchaser to recover the full amount of an overcharge and  
prevents a defendant from offering the downstream sales as an offset. Defendants argue that the  
information it seeks is relevant to its defense and damages, among other things.

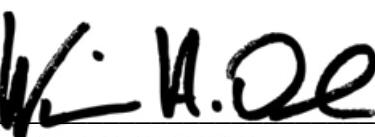
21 After reviewing the discovery letter brief submitted by the parties, I find that the requested  
22 documents are relevant for the reasons identified by the defendants, and am inclined to allow  
23 discovery of electronic data and documents relating to the DPP’s pricing and sales of Lidoderm  
24 and contracts with their customers. However, after reviewing the RFPs, I also agree with the  
25 DPPs that the requests themselves appear overly broad and unduly burdensome.

26 In light of the guidance in this order, the parties shall meet and confer by August 19, 2015,  
27 to attempt to reach a resolution for a more limited production of the documents identified in the  
28 RFPs that is consistent with this Order. *See also* Dkt. No. 232. If they are unable to reach a

1 resolution by 5:00 p.m. on August 19, 2015, they shall give notice by 10:00 a.m. on August 20 to  
2 Ms. Davis, Courtroom Deputy, and provide her with their competing proposals for the scope of  
3 the requests. A telephonic hearing will then occur at 2:00 p.m. on August 21, 2015.

4 **IT IS SO ORDERED.**

5 Dated: August 13, 2015

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7 WILLIAM H. ORRICK  
United States District Judge

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